

RECEIVED  
CENTRAL FAX CENTER  
NOV 11 2005

RESPONSE UNDER 37 C.F.R. 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP 3764

PATENT  
Attorney Docket No. 101.0053-01000  
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No.: 4993
Gary Karlin Michelson	)	
Serial No.: 10/047,545	)	Group Art Unit: 3764
Filed: January 16, 2002	)	Examiner: Michael Brown
For: THREADED FRUSTO-CONICAL	)	
INTERBODY SPINAL FUSION	)	
IMPLANTS	)	

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REPLY TO OFFICE ACTION**

In reply to the Final Office Action of August 10, 2005, the period for reply having been extended for one month by a request for extension and fee payment filed concurrently herewith, Applicant submits the following remarks.

**I. Request to withdraw finality**

Applicant respectfully submits that the final rejection is premature under MPEP § 706.07(c) because no ground of rejection was provided for claim 168 and claim 168 was not indicated as being allowable. Applicant respectfully requests the Examiner to withdraw the finality of the last Office Action pursuant to MPEP § 706.07(d) and issue a non-final Office Action of the claims, including claim 168, on the merits.

**II. Remarks pertaining to the Examiner's art rejection**

In the Office Action, the Examiner rejected claims 154-166 and 169-194 under 35 U.S.C. § 102(e) as being anticipated by Zdeblick et al. ("Zdeblick"). Applicant respectfully traverses the Examiner's rejection. Independent claim 154 recites a spinal fusion implant having a leading end for insertion first into the disc space, at least one